

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**4-06-CR-00403-WRW**

**ANDRE WALKER**

**ORDER**

Pending is Defendant's pro se Motion For Leave To Appeal (Doc. No. 38). The Motion is DENIED.

Under Federal Rule of Appellate Procedure 4(b)(1), a notice of appeal in a criminal case must be filed within 10 days of the later of the entry of either the judgment or order being appealed, or the filing of the government's notice of appeal.<sup>1</sup> A district court can, upon a finding of good cause or excusable neglect, extend the time to file a notice of appeal for not more than 30 days beyond the expiration of the 10-day period in Rule 4(b)(1).<sup>2</sup> A notice of appeal filed after the expiration of forty days from the date on which judgment was entered is untimely.<sup>3</sup>

In this case, judgment was entered on November 20, 2007.<sup>4</sup> Defendant filed his Motion to File Belated Appeal on March 31, 2008<sup>5</sup> -- 132 days after final judgment had been entered and well beyond the 40-day limit imposed by statute. Accordingly, Defendant's Motion is denied.

IT IS SO ORDERED this 2nd day of April, 2008.

/s/ Wm. R. Wilson, Jr.  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>Fed. R. App. P. 4(b)(1).

<sup>2</sup>Fed. R. App. P. 4(b)(4).

<sup>3</sup>See *United States v. Thorpe*, Nos. 06-3125/07-1194, 2007 U.S. App. Lexis 28382, at \*2 (8th Cir. Dec. 6, 2007).

<sup>4</sup>Doc. No. 42.

<sup>5</sup>Doc. No. 43.